

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPC
Brooklyn, NY 11202

Date: MAR - 6 1998

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented disclosed that your organization was formed [REDACTED] in [REDACTED] for the purpose stated: "To act as a homeowners association within the meaning of Section 528 of the Internal Revenue Code of 1986, as amended, and the treasury regulations promulgated thereunder, as amended, and shall include the following:

(a) To operate [REDACTED] a condominium (the "Common Interest Community") in accordance with the provisions of [REDACTED], as amended, and known as the [REDACTED] as amended, and the Declaration and By-Laws of the Common Interest Community, as amended, and

(b) To acquire, construct, manage, maintain and care for the Property in the Common Interest Community in accordance with the provisions of the [REDACTED] as amended; and the Declaration and By-laws of the Common Interest Community, as amended; and

(c) to engaged in any other lawful act or activity for which corporations may be formed under [REDACTED]

Membership requirements: There shall be only one class of members, consisting of those persons who shall from time to time own fee simple title to a Unit in the Common Interest Community. The members shall have the right to vote for the election of Directors in accordance with the Declaration and by-laws of the Common Interest Community, as amended, and shall have all of the other rights usually or by law accorded to the members of a nonstock, nonprofit corporation and not conferred thereby or by this Certificate of Incorporation, or the Declaration of By-laws of the Common Interest, as amended, upon the Directors.

The information submitted with application Form 1024 states that your activities are as follows:

"Homeowners' association charged with the administration, maintenance and operation of the residential condominium complex locally known as [REDACTED]. Daily management responsibilities (sic) are by [REDACTED] in accordance with directives set forth by the Board of Director."

The property is described as lying on a tract of land located...in the [REDACTED] and consisting of seven units in one building. It is further stated that additional buildings may be added to the Common Interest Community to consist of up to [REDACTED] Units in [REDACTED] buildings. The Units are described as two story townhouses above a basement and garage area and family room. The Units are described as having approximately [REDACTED] sq. Ft. of floor space.

The Association is primarily funded from assessments which are charged against and paid by unit owners, usually on a monthly bases. Incidental revenue are ungraded from interest income on idle cash balances and late charge assessed for delinquent payments.

Form 1024, page 4, item 10, states: Cash receipts represent assessments paid by unit owners for the maintenance, upkeep of the building and grounds comprising the complex.

Disbursements are listed as expenses attributable to activities related to the organization's purposes.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it primarily engages in promoting in some way the common good and general welfare of the people of the community.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or

district thereof; ...and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners association.

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

An organization exempt under IRC section 501(c)(4) as a civic league is one who promotes in some way the common good and general welfare of the people of the community, such as bringing about civic betterment and social improvements. The term "community" has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit thereof.

Your organization does not appear to meet the definition of community, as it is a development within [REDACTED] its activities consist of exterior maintenance of private residences, and the common areas are not for the use of the general public.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(4) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

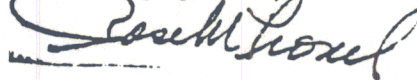
You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,



District Director

Enclosure: Publication 892

cc: 